

May 16, 2016

PRESENT: Rusty Bridle, Chairman
Jim Waddell, Vice-Chairman
Rick Griffin, Selectman – arrived at 7:15
Phil Bean, Selectman
Regina Barnes, Selectman
Frederick Welch, Town Manager

SALUTE TO THE FLAG

I. Public Comment Period

Pete Tilton: heard Selectman Griffin speculate that the force main under the marsh may have been broken for years, but this is not possible; DES is out there weekly testing the water to make sure it is safe for harvesting clams. In early December, the clam-flats were closed and they only opened recently. The people at EPA and DES will not let the Town pump untreated sewage into the marsh knowingly; the pipe would be shut down. Hampton Beach is a 5 star-rated beach for cleanliness; the economic fallout would be devastating if there was sewage in the water in the beach.

Brian Lapham: would like a copy on how we are bonding things as only getting 1-2 bids, seems like there is a bit of an issue and would like to know what the issue is.

II. Announcements and Community Calendar (8:59)

Selectman Waddell: Senator Stiles asked me to announce a Job Fair at the Seabrook Community Center this Thursday, 10-2.

Chairman Bridle: the Recreation Department did their Annual Fishing Derby at Batchelder's Pond, the kids have a great time and the Recreation Department did an excellent job.

III. Consent Agenda (9:50)

1. Solicitation Permit: New Hampshire Public Television May 17 – May 18
2. RSA 31:95-b,III(a) To Accept and Expend NH Highway Safety Grant Money: Hampton STEP Patrols \$17,160.00; Hampton DWI Patrols \$7,800.00

Selectman Waddell MOTIONED to MOVE the Consent Agenda SECONDED by Selectman Barnes.

VOTE: 4-0-0

IV. Appointments (10:30)

1. Kristi Pulliam, Finance Director
 - a. Monthly Financials

Ms. Pulliam: April Financials and target is 33.33%; the months total income was \$623,862 of that total Motor Vehicles came in @ \$273,287 which is over target by \$25,287; other major contributors to the months total were interest on taxes @ \$28,709; Building Permits @ \$27,895; Highway subsidy @ \$67,136; Departmental @ \$46,143; parking lots @ \$43,252 the majority from summer leases; Real Estate Trust @ \$64,393. The Expense Summary shows year to date expenses by department without debt service, but with open POs @ 31.24%, which is under by 2.09% or \$504,000. Overall the departments as a whole are running under target by 33.33%; Voter Registration and Election are both over; Finance is over; MIS @ 79.69%; Planning Board contracted services and dues @ 72.9%; Cemetery heating fuel @ 100.3%; repairs and maintenance @ 54.85%; replacement equipment @ 65.51%. Police Department @ 26.82% overall with open POs; Fire Department @ 31.36% overall with open POs; emergency management @ 98.46%; highways & streets 28.36% overall with open POs; Municipal Sanitation @ 34.96%; Transfer Station as a whole is over @ 37.28%. The 2015 encumbrances are showing that 42% have been expended to date. The Recreation fund balance is \$177,069 with beach sticker donations equaling \$5,000; the Cable Committee fund balance is \$25,992; private details balance is \$122,825; EMS balance is \$492,988; waste water system development charge fees collected in 2016 total \$10,773 and balance in this account is \$74,870.

Selectman Waddell: the revenue continues to increase.

Chairman Bridle: Fund 27, how is that working now that we are able to keep track of what we had to write off. Ms. Pulliam: it is working wonderfully; now we only have three years of outstanding receivables on the books.

Chairman Bridle: so it is a better picture of what we actually have. Ms. Pulliam: absolutely

2. Mark Gearreald, Town Attorney (19:56)
 - a. December Encumbrances

Attorney Gearreald: I looked at the encumbrances that the Board was asked to approve at its meeting on December 21, 2015 and to examine how they have played out since then and if the items were properly encumbered. Mr. Silberdick made the suggestion that both state and local law has been violated and I disagree. In terms of the State law, it is my understanding that Mr. Silberdick first complains that there needed to be competitive bidding with regard to the encumbrances that were authorized on 12/21/15; the public needs to know there is no State law that requires competitive bidding; this arises only if the Board or a Town charter authorizes that. This Board has a purchasing policy which this Board created and which this Board can waive. I believe it was implicit in the vote that was taken on 12/21/15 to approve encumbrances that this policy was waived and was not going to be required to be followed to implement these encumbrances. Regarding encumbrances at the end of the year there is an RSA 32:7 which in order to encumber monies requires the entering into of a legally enforceable obligation with a person. I have examined what the Finance Department has given me by way of purchase orders that were issued very shortly after the list of items was approved by the Board. There was one item that a PO was not generated, which was for the Fire/Ice Rescue System for \$8,000; the rest there were POs and they were very specific to certain vendors and they were very specific in terms of amount and involved a requisition that was signed by the Manager in each case. As long as there was an acceptance communicated after the POs were internally issued, that is it was communicated in some fashion to the vendor that yes we were going through with it that there was a legally enforceable obligation created. With regard to one of those items, the

replacement of the fire telephone system, the acceptance was in fact not communicated, and something different happened; there was a bidding process done just recently, and the party in whose favor the internal PO was issued was actually one of the bidders; but the lower bid was selected AND was \$10,000 below that PO. There was not a legally enforceable obligation to that PO, because the acceptance was not communicated and therefore, that particular item has not been charged to the year 2015, it has been charged to the Fire Department's 2016 budget and therefore that encumbrance has been voided, and the PO internally generated is expunged. The remaining items are being carried out, they are legal obligations.

Selectman Waddell: we are sure that there were commitments made; there were POs and commitments. Attorney Gearreald: There were commitments, they are in writing, and if they want an audit it as Mr. Silberdick desires, they are welcome to come and look.

Selectman Waddell: the only one not, was not charged to 2015, but is being taken out of the budget for 2016. Attorney Gearreald: there was a PO issued for that, but the acceptance was not communicated to the vendor and instead there was a bidding procedure in which that vendor was a participant and instead was selected by competitive bidding and that is being charged to 2016, not 2015.

Selectman Waddell: the only question would be is whether we should have taken it off the warrant articles and not off the budget, but that is a different question totally. Attorney Gearreald: that is a different question, but it was addressed specifically to the Board on 12/21/15. As a matter of fact, Selectman Woolsey stated, "I think it is a cleaner way to do it than tap the undesignated fund, these things I would rather not leave to chance on the warrant, I agree with what you are saying here to meet the needs of the departments".

Selectman Waddell: so if the individual files a complaint, with who I do not know, we feel that we are on solid legal ground. Attorney Gearreald: yes.

Selectman Griffin: thank you for coming and explaining it, we were given your advice before, and let us hope everyone is happy now.

- b. Residuals Waste Disposal Agreement
 - i. Waiver of Purchasing Policy
 - ii. Authorization for Town Manager to sign

Attorney Gearreald: this is a contract that is follow up to one we have had in place for ten years, which I actually signed myself as the interim manager back in 2006. This is for the disposal of sludge at the Turnkey facility, which is hauled to that facility by our own personnel. The contract expires July 31, 2016 and one of the questions if why the Board should not put this out for competitive bidding.

Town Manager Welch: the material must go to a landfill that will accept it; right now Turnkey will accept it. One of the other landfills is up in Bethlehem, NH or we could go to a landfill in central ME, but would have to go through certification and each load would have to be tested, it would be very expensive operation and we would have to haul it there. So, the closest and easiest for us to get to is Turnkey in Rochester, NH.

Selectman Waddell: we have been with this company for ten years. Town Manager Welch: actually longer than that.

Note: Draft minutes are subject to corrections, additions and deletions.

Selectman Waddell: have we gone out to competitive bidding each year. Town Manager Welch: no, because the distance is too far, it would increase the cost exponentially to hire and outside vendor

Selectman Waddell MOTIONED to waive the purchasing policy and to authorize the Town Manager to sign the contract SECONDED by Selectman Barnes.

VOTE: 5-0-0

V. Approval of Minutes (30:00)

1. May 09, 2016 Non-Public Session Minutes

Selectman Waddell MOTIONED to APPROVE the Minutes of May 09, 2016 SECONDED by Selectman Barnes.

VOTE: 5-0-0

VI. Town Manager's Report (30:25)

1. Please remember to visit the Town Clerk to license your dog. The penalty phase for failing to not license your dog starts June 1; approximately, on June 20th a warrant will be issued.
2. Street line painting is continuing with many of our crosswalks, stop bars. The school crossings are already completed. Please be careful of the pedestrians using the crosswalks, now that good weather is with us.
3. Recycling is most important in helping to maintain as low a tax rate as possible. Please increase recycling; the tax dollars that you save are yours.
4. Hampton Post 35 would like to invite all members of the Board to participate in the Memorial Day Parade and ceremony on Monday, May 30, 2016.
5. There will be training at the Police firing range for requalifying; range is not open to the public.
6. Request from the Hampton Firefighters Memorial Sunday for a parade license on June 5, 2016 at 9am

Selectman Waddell MOTIONED to APPROVE a parade license for the Hampton Firefighters Memorial Sunday on June 5, 2016 SECONDED by Selectman Barnes

VOTE: 5-0-0

Selectman Waddell: last meeting we changed the noise ordinance; but the State was working before 6am at the corner of High Street and Ocean Boulevard. Town Manager Welch: yes, we changed the hours; we do notify them of the ordinance and ask that they cooperate if they can

VII. Old Business (35:40)

VIII. New Business (35:50)

1. New Purchasing Policy

Chairman Bridle: it was brought up last week that we need to readdress our purchasing policy that we had last year and the ineffectiveness of it.

Town Manager Welch: there are 2-3 simple things we can do to it rather than rewriting the whole purchasing policy; one is to change the number of people required for minimum bidding

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3 to 2; raise the threshold from \$15,000 to \$20,000 or \$25,000. In many cases, we are unable to acquire three bidders and that generates an awful lot of waivers; the requirements are stiff; so I think you need to change the dollar amounts more representative of the projects, and perhaps raise the threshold from bidding on large project to \$50,000; on Public Works projects, by statute it is \$35,000. Rewriting the whole thing is probably not the best policy; personally, I like the involvement of the Board to some degree because things need to be reviewed.

Selectman Griffin: what happens when we are already using one type of equipment. Town Manager Welch: When you have a single source of equipment, there is a provision in the current policy that says it has to come before the Board.

Selectman Griffin: what is your gut recommendation? Town Manager Welch: I would suggest raising the threshold for bidding that we leave the number of bids at three and we attempt to get those. I want to set up an on-line system to keep a list of individual bidders we can go to. We should try to put together a consortium [with other towns] for bidding as a group, which may get us bigger discounts.

Selectman Bean: this authority for the Town Manager comes under RSA 37:6; I have never had difficulty in examining in the public's interest any bid at any amount in doing the people's work in maintaining the bidding integrity, maintaining competitiveness in taxpayer and citizen interest, I think it is a good business practice. I have examined the document that has been provided tonight, I do not support it; it separates our authority; calls for Acting Town Manager and subordinates to sign off on contracts.

Selectman Waddell: how many changes are in this purchase order that is in front of us? Town Manager Welch: a lot; this is a draft and not the intention to sign off on this tonight, but to look at various options you could have; the current process is not broken, just a little erratic

Selectman Waddell: I agree with Selectman Bean; but I also agree that if we are at a figure that is unrealistic for people to bid on. I think revising the way we put our bids out, not the way we approve them; streamlining that, getting that more efficient, so we are able to get more bidders; not easier, but more efficiently. If it is too labored, they do not want to do it; I agree the Board should have the approval; I also agree that it should be presented in a very transparent manner.

Selectman Barnes: I think we should definitely try to get three bids on everything; establishing a set group; I think going from \$15,000 to \$50,000 is extreme; did look at other municipalities and they were \$20,000-\$25,000.

Chairman Bridle: I think the amount going from \$15,000 to \$20,000 is not a bad idea.

2. Listing and Marketing Agreement for disposal of the 1988 E-One Pumper

Town Manager Welch: the department brought over a request to consider this listing and marketing agreement from Brindlee Mountain Fire Apparatus in Union Grove, AL. I am not enamored for this, which it is under the laws of AL, and we have to pay 10% of the purchase price. My suggestion is advertise it locally; if we put it in the local paper, they put it on the web. We should get some money for it without having to pay commissions.

Selectman Griffin: what type of money could we get? Town Manager Welch: probably a few thousand at most.

Chairman Bridle: I do not think we need to sign an agreement; we can advertise it ourselves.

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Selectman Waddell: is there any liability when we sell it.

Chairman Bridle: I am sure our Legal department can write “as is, as shown” in the contract.

Town Manager Welch: yes, we do that on all the equipment

Selectman Griffin: I have been doing some research and notice that quite a few sidewalks in general in all the communities around here have sidewalk issues. Stratham received a \$600,000 grant to do sidewalks, which go nowhere. Salisbury in the downtown area is very nice, which came from grants. I am wondering if there a ways to get more grants.

Town Manager Welch: we can look, but is very hard to get, because the category these Granting agencies place us in, as being extremely wealthy, which is not true. We will find out where Stratham got their grant.

IX. Closing Comments (59:39)

X. Adjournment

Selectman Waddell MOVED to enter into nonpublic session under RSA 91A:3,II,a&c and asked for roll call at 7:57 PM SECONDED by Selectman Barnes.

VOTE BY ROLL CALL: 5-0-0

Chairman